

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

IN RE:)
AREDIA and ZOMETA PRODUCTS)
LIABILITY LITIGATION) NO. 3-06-MD-1760
) JUDGE CAMPBELL
This Document Relates To Case Number:)
03-06-0506(Cole))

ORDER


Pending before the Court are a Report and Recommendation of the Magistrate Judge (Docket No. 6729), Objections filed by the Plaintiff (Docket Nos. 6757 and 6758), and Defendant's Response to the Objections (Docket No. 6798).

Pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b)(3) and Local Rule 72.03(b)(3), the Court has reviewed *de novo* the Report and Recommendation, the Objections, the Response and the file. The Objections of the Plaintiff are overruled, and the Report and Recommendation is adopted and approved.

The Court notes that Plaintiff's Objections focus primarily on the Magistrate Judge's May 14, 2013 Order (Docket No. 6674), in which he denied Plaintiff's second Motion to Substitute. That Order is not before the Court. Neither party appealed that Order within the time period allowed by Fed. R. Civ. P. 72(a). The issue before the Court in the current Report and Recommendation is whether, given denial of the second Motion to Substitute and the fact that there has not been a Plaintiff, proper or otherwise, in this case since Ms. Cole died in 2008, Defendant's Motion to Dismiss should be granted.

The Court agrees with the Magistrate Judge that, under those circumstances, Defendant's Motion should be granted. Accordingly, Defendant's Motion to Dismiss (Docket No. 6427) is GRANTED, and the above-captioned action is DISMISSED.

IT IS SO ORDERED.



TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE